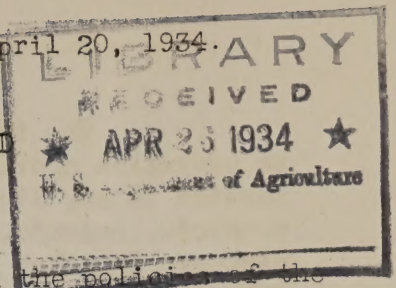


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Ad 4 EXP

April 20, 1934.

EXPLANATORY STATEMENT OF BILL TO AMEND
AGRICULTURAL ADJUSTMENT ACT.



The amendments proposed represent no change in the policies of the Agricultural Adjustment Administration, but are primarily strengthening and clarifying amendments.

(1) Amendment to Benefit Contract Provision

The first section provides for the addition of a new sentence to the present benefit contract section, (i.e., Section 8 (1) of the Agricultural Adjustment Act). The new sentence will make plain the very desirable power of the Administration to prevent a dislocation of the competitive situation in non-basic commodities resulting from the reduction in acreage or production of basic commodities under benefit contracts. The new sentence will make it clear that the Secretary of Agriculture may, in benefit contracts with farmers, provide for limitation or reduction of the acreage or production of non-basic commodities as well as of the basic commodity or commodities for the control of the production of which a contract is primarily designed.

(2) Changes in Marketing Agreement and Licensing Sections

Section 2 provides that the present sections 8 (3) and (4) of the Agricultural Adjustment Act (covering, respectively, the licensing powers and the power to require reports as to books and records) shall be stricken out and a new subsection (3) be inserted in their stead. The new subsection (3) is divided into seven paragraphs.

The first paragraph, lettered (A), states clearly the implied power the Secretary has under the present licensing provision to prohibit those who have no licenses (when licenses are required) from engaging in the handling of agricultural commodities so as to affect interstate or foreign commerce. It also makes plain the fact that the Secretary of Agriculture may license only those producers who are processors or distributors. (This latter specific reference to distributors makes it desirable to add the word "distributors" in Section 8 (2) of the Agricultural Adjustment Act, as provided in Section 10 of the amendatory bill). This paragraph also provides for notice and hearing prior to the issue of a license. This requirement is contained in the present Act only in respect to marketing agreements. It is felt that in the interest of uniformity in the application of the marketing agreement and license provisions it would be wise to insert a requirement of notice and hearing in the licensing sections. Certain language of the original Section 8 (3) which might be construed as limiting in effect have been eliminated.

The second paragraph, lettered (B), merely states the power contained in the present Act for revocation or suspension of a license after notice and hearing.

The third paragraph, lettered (C), provides specifically that no proration provisions affecting purchases from producers may be incorporated in any license except licenses relating to rice, milk and its products, peanuts, flax, dry edible beans, vegetables, fruits, or naval stores. In other words the primary basic commodities such as wheat, cotton, tobacco, and hogs may not have proration schemes, affecting purchases from producers, applied to them under the Agricultural Adjustment Act. This paragraph further provides that even in the case of the commodities listed above, such prorations can be imposed by a license only when two-thirds of the producers, or producers controlling more than two-thirds of the acreage or production for market, of the commodity involved, are in favor of such provisions.

The fourth paragraph, lettered (D), provides, in substantially the same terms as those of the present Act, for penalties as to violators of licenses. This paragraph contains additional provisions designed to prevent attempts to circumvent the present provisions.

The fifth paragraph, lettered (E), incorporates the provisions of the present Act, as to the submission of reports and the keeping of accounts, and also makes clear the powers which the Secretary has exercised in licenses heretofore issued; to avoid legal defenses thereto which may lead to prolonged litigation, it is highly desirable that these powers be explicitly set forth. It is extremely important in the administration of licenses that the Secretary get accurate information as to the conduct of the licensees under a license. This paragraph also provides that any information acquired by the Secretary of Agriculture under this provision is to be kept confidential (substantially following the provisions of the present Revenue laws in this respect) and provides for a fine and for the removal from office of any person violating this prohibition.

The sixth paragraph, lettered (F), confers jurisdiction upon the District Courts to enjoin any person from handling a commodity without a license when the Secretary has prohibited him from such handling without a license.

The last paragraph, lettered (G), contains a purely technical provision making clear that the remedies under the licensing powers are not exclusive.

Section 3 simply rennumbers as subsection (4) the old subsection (5) of Section 8 of the Agricultural Adjustment Act.

(3) Assessment of License Expenses

Section 4 makes explicit the power of the Secretary of Agriculture to assess upon persons engaged in any industry, their prorata shares of administrative expenses incident to any license imposed upon the industry.

(4) Payments to Producer Associations

Section 5 is a purely technical amendment that makes clear the right of the Secretary of Agriculture to pay the expenses of production control associations (associations of producers established to carry out the reduction control programs) by advancing funds to these associations without meeting the ordinary governmental requirements that expenses can be paid only in the form of reimbursement of actual outlays of funds. These local expenses come from the funds available for benefit payments and are really a part of the benefit payments. This provision makes this clear as a matter of law. The provision has been discussed with the General Accounting Office.

(5) Change of Definition of Processing

Sections 6 and 7 are technical amendments providing for a change in the definition of the word "processing" as applied to certain commodities. Under the present Act the processing of these commodities, for purposes of the processing taxes, is defined as the processing thereof "for market". In certain instances this has resulted in inequities as between producers. It is considered desirable to provide instead that these commodities shall be subject to the processing tax when processed for distribution or use. It is believed that this amendment will, particularly in connection with the processing tax on hogs, make it possible to exclude many producers from the category of processors and so eliminate the necessity of their filing returns under the processing tax, and it will at the same time protect the revenue by making it possible to prevent many ways of avoiding the tax by processors.

(6) Amendment of Parity Price Goal

Sections 8 and 9 will amend the parity price goal of the Agricultural Adjustment Act so that current farm labor costs, interest payments on farm indebtedness, and taxes on farm property (as well as the cost of articles farmers buy) will be reflected in parity prices. Labor costs, indebtedness and taxes have undoubtedly increased considerably since the parity period, but under the present Act only the cost of articles farmers buy is reflected in the parity price which the Administration seeks to achieve for producers.

(7) Tax Collection Amendments

Sections 11, 12 and 13, which have been approved and requested by the Bureau of Internal Revenue, are technical amendments designed to perfect the administration of the tax provisions of the Agricultural Adjustment Act.

Section 11 prohibits the refund of any tax which has been passed on to a purchaser (except refunds on exportation and on floor stocks held upon the date any tax is terminated) unless a showing is made that the purchaser will get the benefit of the refund. This principle applies to sales

tax refunds, under section 621 (e) of the Revenue Act of 1932. The Supreme Court recently had before it (Jefferson Elec. Mfg. Co. v. U. S.) a similar provision under the 1928 Act, held it valid, and declared it represented sound and sensible policy.

This section also places periods of limitation on claims and suits for refunds or credits of amounts not representing overpayments - for example, refunds on exports, on floor stocks held at the termination of a processing tax, and on deliveries for charitable distribution. Existing limitations (R. S. 3226 and 3228) apply only to overpayments, and these are not refunds of overpayments. Consequently, suit may be brought within 6 years. Claim is required under the proposed amendment to be filed within 60 days, which is fair in these cases where the right does not depend on disputed questions of law, but arises by reason of a transaction in the course of business which ought to be handled with business promptness. The period for bringing suit applicable to refund of erroneous collections is made applicable to these refunds. Interest on these refunds is prohibited.

Sections 12 and 13 clarify the refund and abatement provisions of sections 15 (a) and 16 (a) (2) of the Agricultural Adjustment Act.